

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
FILE NO. 5:13 CT 3324-BO

MICHAEL ALAN JOHNSON,)
Plaintiff)
)
vs.)
)
DETECTIVE J.S. PINNEY, et al,)
Defendants)

ANSWER & DEFENSES

NOW COME Defendants Detective J.S. Pinney and Detective A. Freeman (hereinafter “these Defendants”), by and through undersigned counsel, responding to the allegations in Plaintiff’s Complaint and hereby allege and say as follows:

FIRST AFFIRMATIVE DEFENSE
Qualified Immunity

These Defendants hereby plead qualified immunity as an affirmative defense and as a complete and total bar to the claims against them in Plaintiff’s Complaint.

SECOND AFFIRMATIVE DEFENSE
Public Official Immunity

These Defendants hereby plead public official immunity as an affirmative defense and as a complete and total bar to the claims against them in Plaintiff’s Complaint.

THIRD AFFIRMATIVE DEFENSE
Plaintiff’s Wrongful Conduct

These Defendants hereby plead the wrongful conduct of the Plaintiff as an affirmative defense and as a complete and total bar to the claims against them in Plaintiff’s Complaint.

FOURTH AFFIRMATIVE DEFENSE
Probable Cause

These Defendants hereby plead probable cause as an affirmative defense and as a complete and total bar to the claims against them in Plaintiff's Complaint.

FIFTH AFFIRMATIVE DEFENSE
Consent to Search

These Defendants hereby plead consent to search as an affirmative defense and as a complete and total bar to the claims against them in Plaintiff's Complaint.

SIXTH AFFIRMATIVE DEFENSE
Prior Adjudication in Criminal Court

These Defendants hereby plead prior adjudication in criminal court as an affirmative defense and as a complete and total bar to the claims against them in Plaintiff's Complaint.

ANSWER

These Defendants admit that Plaintiff provided consent to search his residence and his business and that, following the search of Plaintiff's home, a substantial number of marijuana plants were discovered, along with an assault rifle. It is further admitted that in light of this discovery, Plaintiff was charged criminally with the manufacturing of marijuana and with the possession of a firearm by a felon. It is further admitted that Plaintiff pled guilty to the charges against him, and was given an active sentence of incarceration with the North Carolina Department of Corrections. It is denied that Defendants engaged in any conduct which was unlawful, improper, or in violation of any of Plaintiff's civil or constitutional rights. It is further denied that Defendants searched Plaintiff's residence without consent. It is further denied that Defendants, or either of them, were denied a search warrant for Plaintiff's residence. It is further denied that Defendants threatened Plaintiff, made any promises relating to his potential

punishment for the crimes with which was charged, or violated Plaintiff's right to privacy. It is further denied that the firearm in the Plaintiff's possession, which the Plaintiff pled guilty to possessing, was a fabrication, or that either Defendant had any involvement in the setting of and modification of Plaintiff's bond. Except as expressly herein admitted, the allegations contained in Plaintiff's Complaint are hereby denied.

WHEREFORE, Defendants hereby deny any wrongdoing or violation of any of Plaintiff's rights, and request the following relief from this Court:

1. That the Plaintiff have and recover nothing of the Defendants;
2. That the Plaintiff's Complaint be dismissed, and the costs of this action be taxed to the Plaintiff;
3. That Defendants recover attorney's fees from Plaintiffs pursuant to 42 U.S.C. §1988;
4. For such other and further relief as this Court may deem just and proper; and,
5. For a trial by jury on all issues so triable.

Respectfully submitted this 10th day of December, 2014.

By: /s/Scott C. Hart
State Bar No. 19060
Attorneys for Defendants
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the **ANSWER AND DEFENSES** was electronically filed with the Clerk of Court using the CM/ECF System, and mailed First-Class Mail, postage prepaid, to the following non-CM/ECF participants, addressed as follows:

Michael Alan Johnson
Inmate #0211783
Hyde Correctional Center
Post Office Box 278
Swan Quarter, NC 27885

This the 10th day of December, 2014.

By: /s/Scott C. Hart
State Bar No. 19060
Attorneys for Defendants
Sumrell, Sugg, Carmichael, Hicks & Hart, P.A.
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